



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Washington State Toxicologist

- ☐ Permanent Rule
☒ Emergency Rule
☐ Expedited Rule Making

(1) Date of adoption: May 27th 2004

(2) Purpose: The purpose of this emergency rule making is to indicate approval by the state toxicologist of thermometers used in the breath alcohol testing program.

(3) Citation of existing rules affected by this order:

Repealed:

Amended: 448-13-020

Suspended:

(4) Statutory authority for adoption: RCW 46.61.506

Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR _____ on _____ (date).

Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☒ (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Chapter 68, 2004 Laws (SHB 3055), effective June 10, 2004, amends RCW 46.61.506(4) to require that prior to the start of a breath alcohol test, the temperature of the simulator solution must be measured by a thermometer approved of by the state toxicologist. It is therefore necessary for the state toxicologist to approve thermometers on or before June 10, 2004.

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

☐ Yes ☒ No If Yes, explain:

(6) Effective date of rule:

Permanent Rules

- ☐ 31 days after filing
☐ Other (specify) _____ *

Emergency Rules

- ☐ Immediately
☒ Later (specify) 6/10/2004

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)

Barry K. Logan PhD

Signature

Title
Washington state toxicologist

Date
May 27, 2004

CODE REVISER USE ONLY

CODE REVISER'S OFFICE STATE OF WASHINGTON FILED	
MAY 28 2004	
TIME	12:38
WSR	04-12-051
	AM PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	<u>1</u>	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

WAC 448-13-020 Approval of breath test ((instruments))
equipment. ((Pursuant to RCW 46.61.506, the DataMaster is the
only breath test instrument approved by the state toxicologist
as a device for the measurement of alcohol in a person's breath.
A simulator filled with a certified simulator solution will be
attached to each instrument to provide a known external standard
as defined in WAC 448-13-030(13). The simulator used must be on
the National Highway Traffic Safety Administration (NHTSA)
conforming products list. Any agency, group, or individual
seeking approval or certification from the state toxicologist
for the use of other breath test instruments for evidential
breath testing programs in the state of Washington should
contact the state toxicologist at the address given in WAC 448-
13-210.)) (1) Pursuant to RCW 46.61.506, the following
instruments are approved for the quantitative measurement of
alcohol in a person's breath:

(a) The DataMaster.

(2) Pursuant to RCW 46.61.506, the following thermometers
are approved:

(a) Mercury in glass thermometers with a scale graduated in
tenths of a degree measuring a range between 33.5 and 34.5
degrees centigrade; and

(b) Digital thermometer system contained within the Guth
2100 wet bath simulator.

[Statutory Authority: RCW 46.61.506. 95-20-025, § 448-13-020,
filed 9/27/95, effective 10/28/95; 91-21-040, § 448-13-020,

filed 10/11/91, effective 11/11/91; 91-06-022, § 448-13-020,
filed 2/26/91, effective 3/29/91.]